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COMMISSION ON HUMAN RIGHTS
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Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Draft resolution submitted by Mr. Eide, Mr. Maxim, Ms. Palley, Mr. Saboia, Mr. Sachar and Mr. Yimer

1992/... Forced evictions

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming its resolution 1991/12 of 26 August 1991, in which it decided to review at its forty-fourth session the matter of forced evictions as a gross and consistent pattern of human rights violations affecting large numbers of people,

Recalling that in resolution 1991/12 it drew the attention of the Commission on Human Rights to the need for immediate measures to be undertaken at all levels aimed at eliminating the practice of forced eviction,

Noting the view, put forth in the working paper on the right to adequate housing prepared by Mr. Rajindar Sachar, that the subject of forced evictions was complex and multifaceted and should be examined in detail by the

United Nations, particularly since that act was possibly the most blatant violation of the right to housing (E/CN.4/Sub.2/1992/15, para. 41),

1. Recommends the following draft resolution to the Commission on Human Rights for adoption:

The Commission on Human Rights,

Recalling resolution 1991/12 of 26 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Also recalling its resolution 1992/10 of 2 February 1992, in which it took note with particular interest of General Comment No. 4 (1991) on the right to adequate housing (E/1992/23, annex III) adopted by the Committee on Economic, Social and Cultural Rights and the reaffirmed importance attached in this framework to respect for human dignity and the principle of non-discrimination,

Reaffirming that every woman, man and child has the right to a secure place to live in peace and dignity,

Concerned that, according to United Nations statistics, in excess of one billion persons throughout the world are homeless or inadequately housed, and that this number is growing,

Recognizing that the practice of forced eviction involves the involuntary removal of persons, families and groups from their homes and communities, resulting in increased levels of homelessness and in inadequate housing and living conditions,

Disturbed that forced evictions and homelessness intensify social conflict and inequality and invariably affect the poorest, most socially, economically, environmentally and politically disadvantaged and vulnerable sectors of society,

Aware that forced evictions can be carried out, sanctioned, demanded, proposed, initiated or tolerated by a range of actors, including, but not limited to, national Governments, local governments, developers, planners, landlords, property speculators, and bilateral and international financial institutions and aid agencies,

Emphasizing that ultimate legal responsibility for preventing forced evictions rests with Governments,

Recalling that General Comment No. 2 on international technical assistance measures (1990), adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, inter alia, that international

agencies should scrupulously avoid involvement in projects which, inter alia, involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation,

Mindful of the questions concerning forced evictions included in the guidelines for States' reports (E/1991/23, annex IV) submitted in conformity with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights,

Noting with appreciation that the Committee on Economic, Social and Cultural Rights, in its General Comment No. 4 on the right to adequate housing adopted on 12 December 1991 at its sixth session, considered that instances of forced evictions were, prima facie, incompatible with the requirements of the Covenant and could only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law,

Taking note of the observations of the Committee on Economic, Social and Cultural Rights at its fifth (1990) and sixth (1991) sessions, concerning forced evictions,

Taking note also of the inclusion of forced evictions as one of the primary causes of the international housing crisis in the working paper on the right to adequate housing, prepared by Mr. Rajindar Sachar (E/CN.4/Sub.2/1992/15),

Taking note further of Sub-Commission resolution 1992/... of ... August 1992,

1. Affirms that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing;

2. Urges Governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced evictions;

3. Also urges Governments to confer legal security of tenure to all persons currently threatened with forced eviction and to adopt all necessary measures giving full protection against forced eviction, based upon effective participation, consultation and negotiation with affected persons or groups;

4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes and needs, to persons and communities which have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups;

5. Requests the Secretary-General to transmit the present resolution to Governments, relevant United Nations bodies, including the United Nations Centre on Human Settlements, the specialized agencies, regional and intergovernmental organizations, and non-governmental organizations and community-based organizations, soliciting their views and comments;

6. Also requests the Secretary-General to compile an analytical report on the practice of forced evictions, based on an analysis of international law and jurisprudence and information submitted in accordance with the previous paragraph, and to submit his report to the Commission at its fiftieth session;

7. Decides to consider the analytical report at its fiftieth session, under item 12, entitled "question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories", and to determine how most effectively to continue its consideration of the issue of forced evictions.